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ABSTRACT

This document is intended to provide information about the legal aspects of bilingual education through a general discussion of the problem, as well as through the presentation of laws and other legal documents concerned with the language of education in the schools. Part I, "Introductory Remarks," identifies the two traditions of "English Monolingualism" and the "American Bilingual Tradition" and then considers the legal manifestations of these traditions under the following headings: Federal Law and Bilingual Education, State Laws Concerning the Language of Instruction, The Situation in Polities Other than Component States, Marginal Laws, and Supplementary Schools. A brief discussion of the future prospects of bilingual education concludes this section. Part II, "Quotations," presents excerpts from various sources (federal laws, state laws, state constitutions, Supreme Court decisions, letters from state educational authorities) in order to document present official policy toward bilingual education in both public and private schools. All states and territories of the United States are considered. An appendix provides a survey of 19th century provisions concerning bilingual or non-English schools. (FWB)

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LAWS AND LEGAL DOCUMENTS RELATING TO PROBLEMS OF BILINGUAL EDUCATION IN THE UNITED STATES

by HEINZ KLOSS

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Foreword

This document has been commissioned by the ERIC Clearinghouse for Linguistics in answer to the demand for materials on the subject of legal aspects of Bilingual Education. The author, known world-wide for his interest in problems of bilingualism, compiled the United States Laws on this subject and prepared his comments while working with the International Center for Research on Bilingualism at Laval University in Canada. The author's other works on this and related topics include:

Das Nationalitätenrecht der Vereinigten Staaten von Amerika. Wien: Braumüller, 1963, pp. 347 (ETHNOS vol. 1).

FLES - Zum Problem des Fremdsprachenunterrichts an Grundschulen Amerikas and Europas. Bad Godesberg: Wissenschaftliches Archiv, 1967, pp. 166.

Research Possibilities on Group Bilingualism. A Report. Quebec: International Center for Research on Bilingualism (Publication B18), 1969, pp. 91.

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PART I

INTRODUCTORY REMARKS

A. Two Traditions

Ever since the early days of the United States two great traditions have co-existed not side by side, if that is to mean a sisterly rubbing of elbows, but certainly under the same flag.

One is the tradition of English monolingualism. Most of the time it has been very much in the foreground, people spoke about it, teachers practiced it in the schools, states enacted it into laws and there even was a time - it lasted from 1917 until roughly 1923 - when it seemed to gain a monopoly by ousting its lesser known sister, the American Bilingual Tradition.

Until 1917 there seems to have never been a period when bilingualism was not being practiced. In the first place, the non-English groups always had latitude at the national level to cultivate their languages in the non-public domain, by forming congregations, clubs, newspapers, publishing houses, movies and - most importantly - private schools, where these languages were being used; in recent years radio and occasionally even television broadcasts have been added to the arsenal of non-English groups. Moreover, since independence, there was nearly always some self-governing area under the American flag which was officially bilingual. In the first half of the 19th century it was Louisiana; in the second half, New Mexico, after 1900 Puerto Rico, where, since the middle of the century, English has been deemphasized in favor of Spanish; while American Samoa today is a bilingual polity typifying a more traditional pattern of official bilinguality under the American flag. This bilingual tradition was always overshadowed by its much more glamorous sister, the monolingual tradition. Originally this monolingualism was simply implicit in the outlook and attitudes of American society. Typically the American Constitution, while written in the English language, makes no mention of it. Since the middle of the 19th century the name of the language appears in the statutes as seen from the earliest laws demanding:

> English literacy for voters in Connecticut - 1855; Massachusetts - 1857.

English teaching in all schools in Connecticut - 1872;
Massachusetts - 1873.

That English should be the medium of instruction was required by:

14 states in 1903; 17 states in 1913; 34 states in 1923.

Even the federal government began to emphasize English; in order to become naturalized an immigrant had to be able:

to speak English since 1940;
to read, write and speak English since 1950.

However the temporary eclipse of bilingualism had come to an end long before 1940, with the Supreme Court decisions in Meyer vs. Nebraska (1923) and subsequent cases which had partly restored the previous balance between the two traditions. Bilingualism even came more to the fore than before, at first timidly by dint of the NDEA, but thereafter quite emphatically by the Bilingual Education Act (1967-68) which constitutes a landmark in the history of language teaching in the U.S.

It is too early to assess the extent to which it will actually influence developments in the American educational scene. But even now it can be said that the passage of the BEA has shattered the cliché prevailing in public opinion both abroad and within the country that the promotion of bilingualism is incompatible with the spirit of the Constitution.

It is not without interest that almost simultaneously American readers are being offered chronicles of the two traditions. One is a lengthy treatise by Leibowitz which he modestly calls "English Literacy"[1] but which he might just as well have named "The American Monolingual Tradition" (we hope to see it in book form one day). The other is a book of mine, an adaptation from a German version which appeared in 1963; it will unashamedly be called "The American Bilingual Tradition."[2]

B. Federal Law and Bilingual Education

Bilingual education in elementary and secondary schools is governed, at the federal level, by the Bilingual Education Act (BEA), which forms

Title VII of the act known as the "Elementary and Secondary Education Amendments of 1967." This Act was adopted by Congress in 1967 and was approved January 2, 1968, (Public Law 90-247, 81 Stat. 783). (Cf. 0.1).

It is noteworthy that the BEA as originally submitted to the Senate by Senator Yarborough, (D., Texas) constituted a separate bill which moreover envisioned bilingual education for students of Mexican-American or of Puerto Rican parentage only; this latter provision was later reworded to include all students whose mother tongue is Spanish and later still to refer to children of any linguistic background whatsoever.

Some bilingual programs have been subsidized by federal grants under laws other than the BEA, e.g., Title III of the Elementary and Secondary Education Act (ESEA) of 1965 designed to meet "the educational needs of children of low-income families,"[3] and under Title I ESEA (Migrant Programs). Insofar as teacher training is concerned, there is the Educational Personnel Development Act (EPDEA) of 1968 and the National Defense Education Act (NDEA) of 1958. Among the many NDEA-supported teachers' groups which, according to the law, were designed to help teachers teach foreign languages as a subject matter, there have been some (notably several teachers' institutes conducted at Bowdoin College, Brunswick, Maine, and at Assumption College, Worcester, Massachusetts, between 1961 and 1966 for French-American parochial schools) attended by teachers who, at that time, were practicing dual-medium teaching.[5] Therefore, it seems proper to quote at least the most relevant passages from the NDEA, namely Sections 303 and 305, the latter being important because it enables the non-public schools to share in the developments envisioned by the law-giver. (Cf. 0.2).

Besides the two laws making positive steps possible in the area of bilingual schooling, three decisions handed down by the Supreme Court in the twenties shielding foreign language teaching against certain extremes of suppresssion should be mentioned. After World War I, a number of state legislatures passed laws forbidding the teaching of any non-English language to children below high school age level. Among the most rigid

laws was the Norval Act adopted by the Nebraska legislature in 1921 which made it unlawful to teach languages other than English before a pupil had successfully passed the eighth grade, the only exemptions being religious instruction on Sundays or other holidays (e.g., the Jewish Sabbath) through the non-English language, and the teaching of "any foreign language" to one's own children in the home. This law was declared unconstitutional by the Supreme Court on June 4, 1923, in Meyer vs. Nebraska, the focal part of which is quoted under 0.31. In addition the reader will find under 0.32 some passages from the "Opinion of the Court," and under 0.33 the text of the 14th amendment to which the Court is referring. (Cf. 0.31, 0.32, 0.33).

The champions of monolingualism, besides passing laws forbidding or rendering nearly impossible the teaching of these languages <u>as such</u>, thought up another means to undermine foreign language teaching at the grade school level. Since after 1917 by far the greater part of this teaching was done in non-public, mostly parochial schools, abolishing these schools would also do away with nearly all of this teaching. Oregon, in 1922, passed a law creating a monopoly for the public schools, making it compulsory for all children under the age of 16 years (with some minor exceptions, e.g., for handicapped children) to attend public schools. This law too, the Supreme Court declared in 1925, violated the 14th Amendment. (Cf. 0.4).

Since the 14th Amendment refers to the states only, Meyer vs. Nebraska remained without consequences in the territories then under federal jurisdiction. In 1920 the territory of Hawaii had passed a law severely restricting, without entirely suppressing, foreign language schools which in this territory were chiefly weekday afternoon schools teaching one of the languages of eastern Asia, mostly Japanese. In 1927 the Supreme Court in Farrington vs. Tokushige (273 US 284) declared the Foreign Language Law to be incompatible with the due process clause of the Fifth Amendment (Cf. 0.51), the text of which is also reproduced. (Cf. 0.52).

When in 1943 the state legislature again passed an act designed to put strings on the language schools the U.S. District Court for Hawaii

in 1944 declared the law to be unconstitutional; some of its reasoning is not without interest even today. (Cf. 0.6).

That the guarantees created by these decisions are still valid was stated by the Supreme Court as late as 1965 in Griswold vs. Connecticut.[6] "By Pierce vs. Society of Sisters, the right to educate one's children as one chooses is made applicable to the States by the First and Fourteenth Amendments. By Meyer vs. Nebraska, the same dignity is given the right to study the German language in a private school. In other words, the State may not, consistently with the spirit of the First Amendment, contract the spectrum of available knowledge....And so we reaffirm the principle of the Pierce and Meyer cases." - This statement seems to consider the First Amendment applicable to the language issue underlying Meyer vs. Nebraska.

C. State Laws Concerning the Language of Instruction

1. Overview

In 1969 I sent out a circular letter to the Departments of Education of the 50 states of the Union inquiring about legal provision now in force with regard to bilingual (dual-medium) teaching in both public and non-public schools. All of them complied with my request in the most obliging way. The information gathered is summed up in the following tabulation:

		Both pub. & non-pub. schools	Public schools only	Non-pub. schools only
I.a. English prescribed as medium of teaching	Component States	Ala., Ark., Conn., Iowa, Kan., Mich., Minn., Mont., Neb., N.C., Ore., S.D., W. Va.	Idaho, Ind., La., N.D., Okl., Wisc.	Mass., Nev.
	Other Polities	-	Guam	-
I.b. Spanish prescribed as medium of teaching		-	Puerto Rico	-

			Both pub. & non-pub. schools	Public schools only	Non-pub. schools only
II.	The statutes are silent	Component States	Alaska, Del., Fla., Ga., Hawaii, Kent., Md., Miss., Mo., N.J., Ohio, S.C., Tenn., Utah, Vt., Va., Wyo.	Mass., Nev., R.I.	Ariz., Col., Idaho, Ind., La., N.M., N.D., Okl., Wisc.
		Other Polities	Am. Samoa, Canal Zone, Dist.of Col., Virgin Isl., Trust Terr.	-	Guam, Puerto Rico
III.	Permissive legisl.	Component States	Calif., Ill., Me., N.H., N.Y., Pa., Texas, Wash.	Ariz., Col., N.M.	R.I.
		Other Polities	-	-	-

That the situation is more complicated than this tabulation makes it appear will be seen from the tentative analysis submitted on the following pages. Many of the quotations from the statute books that the Departments of Education sent in were accompanied by brief explanatory or descriptive statements which are called "commentaries" in my subsequent analysis. For brevity's sake, a statement like "The Department of Education from Kentucky holds..." is reduced to "Kentucky holds..."

With regard to the commentaries the reader should be warned against considering their interpretations infallible. Some may disagree with the opinion of Arizona's State Attorney General that the provision that all classes should "be conducted in English" refers to "management, direction, education oversight, or control of the class" and not to the medium of teaching. (Cf. 3.4). Others may doubt that New York's State Education Department is correct in saying that the requirement that instruction in non-public schools must be 'substantially equivalent' to public school instruction makes the use of English mandatory (subject to the two-years

exception provided by a 1968 amendment); (Cf. 32.2) they may hold that bilingual teaching as practiced in some parochial schools of Rhode Island under a 1925 act did, and still does, meet the requirements of the above provision. (Cf. 39.2).

Since the term "private schools" is sometimes applied to both parochial and independent (i.e., private secular) schools and sometimes to the independent schools only I chose to use the unambiguous term "non-public schools" which, in the context of this booklet, does not include supplementary schools.

Where English is prescribed, the statutes in many cases state that this does not apply to the teaching of foreign languages as such. It can be assumed that today all over the United States it is lawful to use the Spanish, French, or German languages whenever these have been introduced as a subject matter. We can therefore disregard this problem on the following pages. But in the last century the Illinois legislature found it necessary to have a law state (in 1869) that "when the German, French, or other modern language is taught in a public school, it shall be lawful for the teacher thereof to employ or use said German or other modern language as the medium of communication in teaching the same." Moreover some of the state laws enacted right after World War I forbade the use of any language other than English in any secular subject.[7]

2. States Where the Statutes are Silent

At first sight the states where the statutes are silent about the language of instruction may be considered neutral, the inference being that bilingual teaching, not being explicitly forbidden, may be introduced by local boards or by non-public schools without the state government being in a position to interfere legally by invoking some non-permissive provision.

True enough, there are a number of states where the respective Departments of Education clearly state that such is the case. In some cases the wish underlying this permissive policy is merely to facilitate the transition from the mother-tongue to English; the reader is referred

to the commentaries from Kentucky, New Jersey and Wyoming. (Cf. 17.2, 30.2, 50.2). The statements coming from Alaska, Maryland and Ohio are broader in scope and seem to indicate that the chief state school officers are willing to put up with bilingual education for its own sake and not merely as a novel road to English monolingualism. (Cf. 1.2, 20.2, 35.2). To this group of states, Florida may be added, for while its Department of Education does not comment on the omission in the statute it nevertheless has permitted since 1963, in Miami (Dade County), what was probably the earliest large-scale public school bilingual program launched anywhere in the U.S. after World War I. (Cf. B. Gaarder in Journal of Social Issues 23, 1967, pp. 110-120).

On the other hand we find that in a few states the lack of an explicit stipulation is due not to a multilingual outlook but to an emphatic conviction that it literally "goes without saying" that all teaching has to be done through English. In both Massachusetts and Nevada English is prescribed as a medium only in the sections concerning non-public schools, the inference being obviously that no such provision was necessary for the public schools because the medium there had to be English anyway. The commentary from Hawaii explicitly states that until 1965 the law specified that all instruction would be in English but that this provision was dropped because it was believed merely "to state the obvious" and therefore to be superfluous. (Cf. 11.2).

In the cases of Delaware and of Georgia, it may be admissible to construe the silence of the statute books as non-permissive with regard to the public, but as permissive as regards the non-public schools, for in both states we were informed that there is little or no state supervision of non-public schools. (Cf. 10.2).

With regard to seven states, the reader is free to decide for himself whether he will regard the silence of the statute books as indicating either a fundamentally permissive attitude, a wholly pro-English attitude or an attitude of indifferent neutrality. The states in question are: Mississippi, Missouri, South Carolina, Tennessee, Utah, Vermont,

Virginia - to which those six states should be added which stipulate English for their public schools but say nothing about non-public schools.

Four of the states listed above are in the Old South and have never experienced a large-scale immigration from Europe or from Latin America, and it is not unlikely that the exclusive use of the English language is considered as the obvious thing there; this interpretation is confirmed by the comments from Virginia.

3. States Giving English a Monopoly in the Statute Books

Among the twenty states (including six where the provisions concerning the use of English bear on public schools only) still requesting that elementary schools in order to meet the requirements of compulsory attendance must teach all branches through the English language, there are ten which prescribe that teaching be done in the English language only. These are: Alabama, Arkansas, Indiana*, Iowa, Kansas, Michigan, Nevada, North Dakota*, South Dakota, West Virginia, Wisconsin*.

Of these (the ones indicated by an asterisk prescribe the exclusive use of English merely for public schools), Nevada exacts exclusively "English" schooling only for non-public schools. It may safely be assumed that in this respect the government cannot and will not demand from the non-public schools what it does not usually expect from the public schools. (Cf. 21.3).

In the following nine states, the law does not explicitly state that no other medium will be permitted along with English. These states are: Connecticut, Idaho*, Louisiana*, Massachusetts, Minnesota, Montana, Nebraska, North Carolina, Oklahoma*, Oregon.

In Arizona the law states that schools have to be "conducted" in English. (Cf. 3.2, 3.3). This wording enabled the State Attorney of Arizona to submit an opinion (in 1968) according to which the word "conduct" does not refer to the language of the classrooms but to the management, direction, oversight, or control of the class; therefore he saw

no conflict in the application of this provision and the application of the BEA which he feels aims at "improving a pupil's understanding and communication of English by the logical process of using his familiar language to teach him English." (Cf. 3.4).

Remarkably North Carolina points out that the statutory requirement to have schools use English does not preclude experimental bilingual programs. (Cf. 33.3).

4. States Where the Laws are Permissive

With regard to bilingual teaching we have to distinguish between three goals:

Goal "A" - To promote the acquisition of English by a detour via the mother-tongue.

Goal "B" - To have the child acquire equal ability in the handling of both his mother-tongue and the national language.

Goal "C" - To promote the fluency with which English-speaking pupils - high school students in the first place - use a non-English language by permitting the second language to be used, for a while at least, as a teaching medium of one or for several branches of learning.

The last-named principle - content-teaching through the second language at the high school level - is one not envisioned by the BEA. But in actual practice it underlies a considerable number of experiments which have been, or are being conducted in various states.[8] It is a permanent feature in the Canal Zone's Latin-American schools (Cf. 57.2) and has even been embodied in the laws of at least two states. (Cf. 5.1, paragraph 4; 38.1).

Moreover there have been cases where the principle of content-teaching through the second language was applied for the benefit of native speakers of a minority language, e.g., Spanish-speaking high school students in New York City.[9]

Goal "A", namely to assist non-English pupils in the acquisition of

the national language, seems to be the implied purpose of the amendments enacted by New York in 1968 and by Arizona and Maine in 1969, (Cf. 3.1, 19.2) all of which limit bilingual education to grade three and under; and the avowed main purpose of the 1969 amendment of Colorado, in spite of its vague declaration of intention, casually hints that one of its purposes is "to develop bilingual skills." (Cf. 6.1).

As stated above some of the states whose statutes are silent also belong in this specific category, namely Kentucky, New Jersey and Wyoming, whose commentaries mention the use of a non-English tongue in the teaching of children from migrant families.

A majority of states fall into a category where bilingual education is permitted without explicit reference to a time period (grade) or age bracket (age) or where the period is so long (Texas: grade 6) as to permit a wholly bilingual elementary education. One law in this group goes back to 1925 (Rhode Island). (Cf. 39.2). All of the seven other states in this group had their statutes amended in recent years, obviously under the influence of the BEA, with California taking the lead in 1967, and the six others following suit in 1968-69. (Cf. 5.1, paragraphs 2 and 3). It may well be that here we are dealing with a groundswell which in the near future will lead to similar amendments in other states.

Finally there is at least <u>one</u> provision enacted in California in 1968 which specifically aims at giving latitude for having content taught in high schools in a foreign language (Cf. 5.1, paragraph 4); besides, the 1968 Pennsylvania amendment may be interpreted as envisioning the same goal when it says that using a medium other than English may be permitted "as part of a sequence in foreign language study."

D. <u>The Situation in Polities Other Than the Component States</u>

Under American sovereignty or administration, we find, besides the fifty component states, a number of other polities, to wit: the District of Columbia, the Commonwealth (in Spanish: estado libro asociado) of Puerto Rico, Guam, the American Virgin Islands, American Samoa, the Panama Canal Zone, the Trust Territory of the Pacific Islands.

Of these, only the District of Columbia is fully incorporated into the U.S.A. The Canal Zone and the Trust Territory, while undisputedly under American control, are not under American sovereignty.[10] The four other polities occupy positions between these two extremes, i.e., they are under U.S. sovereignty but are not considered as having been fully incorporated into the U.S.A.

Remarkably only two out of these seven polities have laws dealing with the language of instruction. Both favor the monolingual school. But in Guam the prescribed language is English, while in Puerto Rico it is Spanish. (Cf. 52.1, 55.1). It is rather astonishing and in a way admirable, that the nationally dominant language should not be admitted as a teaching tool in the public schools of the Commonwealth, not even in the case of children belonging to the small (50,000) English-speaking local minority.

While in the five other polities the statutes are silent, in three of them there is a definite tendency to promote the bilingual or even the non-English monolingual school. In both Samoa (Cf. 54.2) and the Trust Territory (Cf. 58.2), the schools start teaching through the local vernacular. In Samoa it is only in the third grade that English is introduced in its written form to a considerable extent, while in the upper primary grades Samoan, while remaining a subject matter, is otherwise replaced by English. In the Canal Zone the public schools for non-citizens - the so-called Latin-American schools - are Spanish-medium schools. (Cf. 57.2). As for the District of Columbia it is known that in the private sector a number of bilingual schools have been admitted which are being subsidized by foreign governments. Guam is the place where the emphasis on English is strongest.

E. Marginal Laws

A few laws have been quoted in this compilation which are marginal to its key problem, i.e., bilingual education.

a) A Federal Law Concerning Non-English Public Schools

As mentioned above, the Commonwealth of Puerto Rico forbids teaching in the public schools through a medium other than Spanish. In 1969 this policy was enacted into law; prior to this it was just a well-established practice.

It took a federal law (and a subsequent Supreme Court decision) to give the Spanish-medium schools of Puerto Rico full equality of status with the English-medium schools of the mainland - a ruling of vital importance for the political rights of the Puerto Rican outmigrants to the mainland. (Cf. 0.7).

b) The Teaching of Foreign Languages in Elementary Grades

A few laws have been quoted which explicitly permit the teaching of languages other than English in the elementary grades. Such laws are on the statute books of Texas (Cf. 43.2, 43.3) and of Louisiana (Cf. 18.3). (It should be noted that there are states which facilitate or even make mandatory the teaching of certain non-English languages in public high schools; these laws have not been included in the present compilation.)

c) The Use of Non-English Languages as Auxiliary Tools

A Minnesota law dating back to 1877 permits the use of languages other than English as auxiliary tools without however providing for their use along with English as fully developed teaching tools. (Cf. 23.2).

I do not feel that we are justified to list this clause among the laws permitting bilingual teaching because it does not aim at making the children literate in two tongues, an aim which has to be considered as the minimum goal in this area.

d) State Aid for Language Instruction in Non-Public Schools

In the sixties there was something of a groundswell to grant government subsidies to parochial and other private schools. While until recently such aid was restricted to free busing, free school lunches and, most importantly, free textbooks, in 1968, Pennsylvania was the first state to subsidize even salaries for private school teachers in certain designated secular subjects, foreign languages being among them. Similar laws have since been enacted in Ohio, Rhode Island and Connecticut (in

all cases in 1969) and in New York (April 1970). On the other hand the constitutionality of three of these laws (Pennsylvania, Rhode Island, Connecticut) has been challenged in the courts and on April 20, 1970, the U.S. Supreme Court agreed to rule on the constitutionality of the Pennsylvania law. It seems appropriate to quote at least the last-named because it was a pioneering venture. (Cf. 38.2).

A favorable decision by the Supreme Court would enhance the prospects for a comeback of bilingual teaching in parochial schools - e.g., among the French-Americans.

F. Supplementary Schools

A supplementary school, in the context of this chapter, is any school attended by pupils of compulsory school attendance age, which does not fall under the jurisdiction of the compulsory education act - in other words a part-time ethnic school attended in addition to a public, parochial, or independent day school.

The types of supplementary schools teaching non-English languages and occurring most frequently are: Saturday schools, weekday afternoon schools, summer schools held during vacation time.

Since the Supreme Court decisions of 1923-27 in Meyer vs. Nebraska (Cf. 0.3), and Farrington vs. Tokushige (Cf. 0.5), and a corresponding decision by a Federal District Court in 1944 (Cf. 0.6), the freedom of supplementary schools under the American flag, teaching non-English languages seems safeguarded from new infringements. There are even isolated instances where the state school laws take cognizance of, and sanction their activities. Thus the California school code, in Sections 8705 and 8706 (1965), permits credit to be given for courses in foreign languages in private schools. (Cf. 5.2). Among the languages listed there are some which are not known to be taught in full-time day schools (e.g., modern Greek, Japanese, Yiddish); my observation that credit is obtainable for foreign language courses given by supplementary schools, has been confirmed by the California Department of Education in a letter

dated October 21, 1969.

Supplementary schools have frequently been aided indirectly by having been granted full use of public school buildings and sometimes even receiving free textbooks; on the other hand I do not know of any state government subsidizing them.[11]

G. Outlook

Conceivably the present compilation will cause some legislators and/or administrators to take a new look at the issue of bilingual schooling. Here are some of the questions they might perhaps ask themselves:

Do the permissive provisions enacted since 1967 in a number of states deserve to be studied in other states with a view to adopting similar measures?

Should such permissive legislation as may be drafted and enacted be restricted to grades one and two?

Might not still existing provisions designating English as the language of instruction stand some modification? Might some of them not be tempered down by exempting non-public schools from this iron rule - and could not, in a number of cases, the rule be made more flexible by deleting at least the requirement that instruction be given in English only?

Wherever state legislatures, for some good reasons, cannot bring themselves to permit bilingual public schools, could they not at least imitate Rhode Island by explicitly permitting dual medium teaching in non-public schools? While most legal experts will agree that under the federal Constitution state governments are entitled to make English the only teaching medium in public schools, there is serious doubt whether the same holds for non-public schools; clearly it would be in keeping with the spirit of the Constitution if the last vestiges of legislation banning non-English media from private schools were removed.

A peculiar problem is posed by the many states where the statutes are silent. As we have seen, a number of state governments feel the exclusive use of English to be the obvious thing so as to render unnecessary any specific provision to this effect. But it is doubtful whether the courts would comply with this reasoning. The present situation in these states is ambiguous to say the least.

The present booklet will serve a worthwhile purpose if it succeeds in making some state legislators and some state departments of education aware of the numerous possibilities to further improve a legal situation which even now is decidedly superior to that obtaining a decade ago.

In at least one state (Cf. 18.3), legislators may wonder whether their present law making the teaching of the state's foremost non-English language mandatory from grade one upward, is not rather tame if held against the innovations introduced in, e.g., California or Texas.

Other state departments of education may wonder whether it would not be good policy to emulate California's policy of qualified furtherance of supplementary schools. (Cf. 5.1 (8706)).

While thoughtful readers may think up new solutions in the field of bilingual education they will never lose sight of the fact that a good law is not in itself a panacea but needs to be implemented and applied by broadminded men and women who keep a watchful eye on subsequent developments. All laws be they ever so perfectly formulated, are exposed to two major dangers. They may be abused or they may remain unused (or after a start wither and fall into disuse). It is well known that on many statute books we find provisions that were enacted some decades ago and which by now are practically forgotten. It is quite likely that the present compilation contains some laws belonging to this category (I am thinking, e.g., of two provisions, culled from the statute books of Minnesota and Texas respectively).

The same fate may befall some of the more recent progressive laws if, for instance, the first attempts at implementation should run into unforeseen obstacles.

The danger of abuse may be even greater. A majority of those Amer-

ican children who come from homes where no English is spoken belong to non-white groups, chiefly Mexicans and Amerindians. While the Bilingual Education Act encourages school administrators to have these children attend separate bilingual schools (or classes) there always lurks the danger that local officials misuse the law to bring about segregation on racial grounds - the courts have come across similar attempts long ago[12] - and Leibowitz is right when he urges[13] the authorities to be watchful, lest "the (Bilingual Education) Act be used primarily to preserve racial discrimination."

I will close this outlook by quoting from a resolution (C 14) passed on July 5, 1961, by the National Education Association (NEA) at its annual meeting[14]:

> The NEA calls upon its members and affiliates to seek repeal of state laws prohibiting the teaching of subjects (other than foreign languages) in any language but English....

Quebec, May 1970

Heinz Kloss

PART II

QUOTATIONS

A. Federal Laws and Decisions by the Supreme Court of the U.S.

0.1 The Bilingual Education Act (BEA)

(In the context of AN ACT)

To strengthen, improve, and extend programs of assistance for elementary and secondary education, and for other purposes. (P.L. 90-247, 90th Congress, H-R 7809, January 2, 1968).

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the 'Elementary and Secondary Education Amendments of 1967'."

... TITLE VII—BILINGUAL EDUCATION PROGRAMS

FINDINGS OF CONGRESS

SEC. 701. The Congress hereby finds that one of the most acute educational problems in the United States is that which involves millions of children of limited English-speaking ability because they come from environments where the dominant language is other than English; that additional efforts should be made to supplement present attempts to find adequate and constructive solutions to this unique and perplexing educational situation; and that the urgent need is for comprehensive and cooperative action now on the local, State, and Federal levels to develop forward-looking approaches to meet the serious learning difficulties faced by this substantial segment of the Nation's school-age population.

AMENDMENT TO ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

79 Stat. 55; 80 Stat. 1204. 20 USC. 881-886.

SEC. 702. The Elementary and Secondary Education Act of 1965 is amended by redesignating title VII as title VIII, by redesignating sections 701 through 707 and references thereto as sections 801 through 807, respectively, and by inserting after title VI the following new title:

"TITLE VII—BILINGUAL EDUCATION PROGRAMS

"SHORT TITLE

"SEC. 701. This title may be cited as the 'Bilingual Education Act'.

"DECLARATION OF POLICY

"SEC. 702. In recognition of the special educational needs of the large numbers of children of limited English-speaking ability in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out new and imaginative elementary and secondary school programs designed to meet these special educational needs. For the purposes of this title, 'children of limited English-speaking ability' means children who come from environments where the dominant language is other than English.

"AUTHORIZATION AND DISTRIBUTION OF FUNDS

"SEC. 703. (a) For the purposes of making grants under this title, there is authorized to be appropriated the sum of $15,000,000 for the fiscal year ending June 30, 1968, $30,000,000 for the fiscal year ending June 30, 1969, and $40,000,000 for the fiscal year ending June 30, 1970.

"(b) In determining distribution of funds under this title, the Commissioner shall give highest priority to States and areas within States having the greatest need for programs pursuant to this title. Such priorities shall take into consideration the number of children of limited English-speaking ability between the ages of three and eighteen in each State.

"USES OF FEDERAL FUNDS

"SEC. 704. Grants under this title may be used, in accordance with applications approved under section 705, for—

"(a) planning for and taking other steps leading to the development of programs designed to meet the special educational needs of children of limited English-speaking ability in schools having a high concentration of such children from families (A) with incomes below $3,000 per year, or (B) receiving payments under a program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, including research projects, pilot projects designed to test the effectiveness of plans so developed, and the development and dissemination of special instructional materials for use in bilingual education programs; and 42 USC 401-428.

"(b) providing preservice training designed to prepare persons to participate in bilingual education programs as teachers, teacher-aides, or other ancillary education personnel such as counselors, and inservice training and development programs designed to enable such persons to continue to improve their qualifications while participating in such programs; and

"(c) the establishment, maintenance, and operation of programs, including acquisition of necessary teaching materials and equipment, designed to meet the special educational needs of children of limited English-speaking ability in schools having a high concentration of such children from families (A) with incomes below $3,000 per year, or (B) receiving payments under a program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, through activities such as—

"(1) bilingual education programs;

"(2) programs designed to impart to students a knowledge of the history and culture associated with their languages;

"(3) efforts to establish closer cooperation between the school and the home;

"(4) early childhood educational programs related to the purposes of this title and designed to improve the potential for profitable learning activities by children;

"(5) adult education programs related to the purposes of this title, particularly for parents of children participating in bilingual programs;

"(6) programs designed for dropouts or potential dropouts having need of bilingual programs;

"(7) programs conducted by accredited trade, vocational, or technical schools; and

"(8) other activities which meet the purposes of this title.

"APPLICATIONS FOR GRANTS AND CONDITIONS FOR APPROVAL

"SEC. 705. (a) A grant under this title may be made to a local educational agency or agencies, or to an institution of higher education applying jointly with a local educational agency, upon application to the Commissioner at such time or times, in such manner and containing or accompanied by such information as the Commissioner deems necessary. Such application shall—

"(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) set forth a program for carrying out the purpose set forth in section 704 and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

81 STAT. 817

81 STAT. 818

"(3) set forth a program of such size, scope, and design as will make a substantial step toward achieving the purpose of this title;

"(4) set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of funds (including funds made available under title I of this Act) that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in section 704, and in no case supplant such funds;

79 Stat. 27;
80 Stat. 1198.
20 USC 241a note.

"(5) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title;

"(6) provide for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of persons in the area served, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

"(7) provide assurance that provision has been made for the participation in the project of those children of limited English-speaking ability who are not enrolled on a full-time basis; and

"(8) provide that the applicant will utilize in programs assisted pursuant to this title the assistance of persons with expertise in the educational problems of children of limited English-speaking ability and make optimum use in such programs of the cultural and educational resources of the area to be served; and for the purposes of this paragraph, the term 'cultural and educational resources' includes State educational agencies, institutions of higher education, nonprofit private schools, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources.

"(b) Applications for grants under title may be approved by the Commissioner only if—

"(1) the application meets the requirements set forth in subsection (a);

"(2) the program set forth in the application is consistent with criteria established by the Commissioner (where feasible, in cooperation with the State educational agency) for the purpose of achieving an equitable distribution of assistance under this title within each State, which criteria shall be developed by him on the basis of a consideration of (A) the geographic distribution of children of limited English-speaking ability, (B) the relative need of persons in different geographic areas within the State for the kinds of services and activities described in paragraph (c) of section 704, and (C) the relative ability of particular local educational agencies within the State to provide those services and activities;

"(3) the Commissioner determines (A) that the program will utilize the best available talents and resources and will substantially increase the educational opportunities for children of limited English-speaking ability in the area to be served by the applicant, and (B) that, to the extent consistent with the number of children enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which this program is intended to meet, provision has been made for participation of such children; and

"(4) the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

"(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

"PAYMENTS

"SEC. 706. (a) The Commissioner shall pay to each applicant which has an application approved under this title an amount equal to the total sums expended by the applicant under the application for the purposes set forth therein.

"(b) Payments under this title may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

"ADVISORY COMMITTEE

"SEC. 707. (a) The Commissioner shall establish in the Office of Education an Advisory Committee on the Education of Bilingual Children, consisting of nine members appointed, without regard to the civil service laws, by the Commissioner with the approval of the Secretary. The Commissioner shall appoint one such member as Chairman. At least four of the members of the Advisory Committee shall be educators experienced in dealing with the educational problems of children whose native tongue is a language other than English.

"(b) The Advisory Committee shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including the development of criteria for approval of applications thereunder. The Commissioner may appoint such special advisory and technical experts and consultants as may be useful and necessary in carrying out the functions of the Advisory Committee.

"(c) Members of the Advisory Committee shall, while serving on the business of the Advisory Committee, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

Members. Compensation; travel expenses.

80 Stat. 499.

"LABOR STANDARDS

"SEC. 708. All laborers and mechanics employed by contractors or subcontractors on all minor remodeling projects assisted under this title shall be paid wages at rates not less than those prevailing on similar minor remodeling in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority

49 Stat. 1011; 78 Stat. 238.

64 Stat. 1267. and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 63 Stat. 108. 276c)."

CONFORMING AMENDMENTS

SEC. 703. (a) That part of section 801 (as so redesignated by section 702 of this Act) of the Elementary and Secondary Education Act of 1965 which precedes clause (a) is amended by striking out "and VI" and inserting in lieu thereof "VI, and VII".

Ante, p. 816.
81 STAT. 819
81 STAT. 820

(b) Clause (j) of such section 801 as amended by this Act is further amended by striking out "and VI" and inserting in lieu thereof "VI, and VII".

AMENDMENTS TO TITLE V OF THE HIGHER EDUCATION ACT OF 1965

SEC. 704. (a) The third sentence of section 521 of the Education Professions Development Act (title V of the Higher Education Act of 1965) is amended (1) effective for the fiscal year ending June 30, 1968 only, by inserting after "a career of teaching in elementary or secondary schools" a new phrase as follows: ", a career of teaching children of limited English-speaking ability", and (2) effective with respect to subsequent fiscal years, by inserting ", and including teaching children of limited English-speaking ability" after "including teaching in preschool and adult and vocational education programs".

79 Stat. 1258.
20 USC 1111.
Ante, p. 93.

(b) Effective for the fiscal year ending June 30, 1968, only, section 522(a) of such Act is amended by striking out "ten thousand fellowships for the fiscal year ending June 30, 1968" and inserting in lieu thereof "eleven thousand fellowships for the fiscal year ending June 30, 1968".

20 USC 1112.

(c) (1) Section 528 of such Act is amended, effective with respect to fiscal years ending after June 30, 1967, by striking out "$275,000,000" and inserting in lieu thereof "$285,000,000"; striking out "$195,000,000" and inserting in lieu thereof "$205,000,000"; striking out "$240,000,000" and inserting in lieu thereof "$250,000,000"; and striking out "July 1, 1968" and inserting in lieu thereof "July 1, 1970".

20 USC 1118.

(2) The amendments made by this subsection shall, notwithstanding section 9(a) of Public Law 90–35, be effective with regard to fiscal years beginning after June 30, 1967.

Ante, p. 94.

(d) Section 531(b) of such Act is amended by redesignating clauses (8) and (9) thereof as clauses (9) and (10), respectively, and by inserting immediately after clause (7) the following new clause:

Ante, p. 92.

"(8) programs or projects to train or retrain persons engaging in special educational programs for children of limited English-speaking ability;".

AMENDMENTS TO TITLE XI OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

SEC. 705. (a) Section 1101 of the National Defense Education Act of 1958 is amended by striking out "and for each of the two succeeding fiscal years" and inserting in lieu thereof "and for the succeeding fiscal year, and $51,000,000 for the fiscal year ending June 30, 1968".

78 Stat. 1107; 79 Stat. 1254. 20 USC 591.

(b) Such section is further amended by striking out the period at the end of clause (3) and inserting in lieu thereof a comma and the word "or", and by inserting after such clause a new clause as follows:

79 Stat. 1228.

"(4) who are engaged in or preparing to engage in special educational programs for children of limited English-speaking ability."

AMENDMENTS TO COOPERATIVE RESEARCH ACT

SEC. 706. Subsections (a) and (b) of section 2 of the Cooperative Research Act are each amended by inserting "and title VII" after "section 503(a)(4)". 68 Stat. 533; 79 Stat. 44. 20 USC 331 note.

Approved January 2, 1968.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 188 (Comm. on Education & Labor) and No. 1049 (Comm. of Conference).
SENATE REPORT No. 726 (Comm. on Labor & Public Welfare).
CONGRESSIONAL RECORD, Vol. 113 (1967):
May 22-24: Considered and passed House.
Dec. 1, 4-8, 11: Considered and passed Senate amended.
Dec. 15: House and Senate agreed to conference report.

0.2 From the National Defense Education Act (P.L. 85-864, as amended)

State Plans

SEC. 303. (a) Any State which desires to receive payments under this part shall submit to the Commissioner, through its State educational agency, a State plan which meets the requirements of section 1004(a) and -

(1) sets forth a program under which funds paid to the State from its allotment under section 302(a) will be expended solely for projects approved by the State educational agency for (A) acquisition of laboratory and other special equipment (other than supplies consumed in use), including audiovisual materials and equipment, and printed and published materials (other than textbooks), suitable for use in providing education in science, mathematics, history, civics, geography, economics, industrial arts, modern foreign languages, English, or reading in public elementary or secondary schools, or both, (emphasis added) and of testgrading equipment for such schools and specialized equipment for audiovisual libraries serving such schools, and such equipment may, if there exists a critical need therefor in the judgment of local school authorities, be used when available and suitable in providing education in other subject matter, and (B) minor remodeling of laboratory or other space used for such materials or

equipment;

(2) sets forth principles for determining the priority of such projects in the State for assistance under this part and provides for undertaking such projects, insofar as financial resources available therefor make possible, in the order determined by the application of such principles;

(3) provides an opportunity for a hearing before the State educational agency to any applicant for a project under this part;

(4) provides for the establishment of standards on a State level for laboratory and other special equipment acquired with assistance furnished under this part;

(5) sets forth a program under which funds paid to the State from its allotment under section 302(b) will be expended solely for (A) expansion or improvement of supervisory or related services in public elementary and secondary schools in the fields of science, mathematics, history, civics, geography, economics, industrial arts, <u>modern foreign languages</u>, (emphasis added) English, and reading, and (B) administration of the State plan; and

(6) sets forth any requirements imposed upon applicants for financial participation in projects assisted under this part, including any provision for taking into account, in such requirements, the resources available to any applicant for such participation relative to the resources for participation available to all other applicants.

(b) The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

Loans to Nonprofit Private Schools

SEC. 305. From the sum reserved for each fiscal year for the purposes of this section under the provisions of section 302(a), the Commissioner is authorized to make loans to private nonprofit elementary and secondary schools (emphasis added) in any State. Any such loan shall be made only for the purposes for which payments to State educational agencies are authorized under the first sentence of section 301, and -

(1) shall be made upon application containing such information as may be deemed necessary by the Commissioner;

(2) shall be subject to such conditions as may be necessary to protect the financial interest of the United States;

(3) shall bear interest at the rate arrived at by adding one-quarter of 1 per centum per annum to the rate which the Secretary of the Treasury determines to be equal to the current average market yield on outstanding marketable obligations of the United States with redemption periods to maturity comparable to the average maturities of such loans as computed at the end of the fiscal year next preceding the date the application for the loan is approved and by adjusting the result so obtained to the nearest one-eighth of 1 per centum; and

(4) shall mature and be repayable on such date as may be agreed to by the Commissioner and the borrower, but such date shall not be more than ten years after the date on which such loan was made.

0.31 The U.S. Supreme Court in Meyer vs. Nebraska, 262 U.S. 390, 1923

Forbidding the teaching in school of any other than the English language, until the pupil has passed the eighth grade, violates the guaranty of

liberty in the fourteenth amendment of the Federal Constitution, in the absence of sudden emergency rendering the knowledge of the foreign language clearly harmful.

0.32 Ibid., From the Opinion of the Court

The Supreme Court of the State has held that the so-called ancient or dead languages "are not, within the spirit or the purpose of the act." ...Latin, Greek, Hebrew are not proscribed; but German, French, Spanish, Italian and every other alien speech are within the ban. Evidently the legislature has attempted materially to interfere with the calling of modern language teachers, with the opportunities of pupils to acquire knowledge, and with the power of parents to control the education of their children.

It is said, that the purpose of the legislation was to promote civic development by inhibiting training and education of the immature in foreign tongues and ideals before they could learn English, and acquire American ideals; and "that the English language should be and become the mother tongue of all children reared in this State." It is also affirmed that the foreign born population is very large, that certain communities commonly use foreign words, follow foreign leaders, move in a foreign atmosphere and that the children are thereby hindered from becoming citizens of the most useful type, and the public safety is imperiled.

That the State may do much, go very far indeed in order to improve the quality of its citizens, physically, and mentally, and morally, is clear; but the individual has certain fundamental rights which must be respected. The protection of the Constitution extends to all those who speak other languages as well as to those born with English on the tongue. Perhaps it would be highly advantageous if all had a ready understanding of our

ordinary speech, but this cannot be coerced by methods which conflict with the Constitution - a desirable end cannot be promoted by prohibited means.

The power of the State to compel attendance at some schools and to make reasonable regulations for all schools, including a requirement that they shall give instructions in English, is not questioned, nor has challenge been made of the State's power to prescribe a curriculum for institutions which it supports.

0.33 U.S. Constitution, Fourteenth Amendment, 1868

No State shall.. deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

0.4 The U.S. Supreme Court in Society of Sisters vs. Pierce, 268 U.S. 571, 1925

1. The fundamental theory of liberty upon which all government of this country rests, excludes any general power of the state, to standardize its children by forcing them to accept instruction from public teachers only.

2. The Oregon Compulsory Education Act... is an unreasonable interference with the liberty of the parents and guardians to direct the upbringing of the children, and in that respect violates the 14th Amendment.

0.51 The U.S. Supreme Court in Farrington vs. Tokushige, 273 U.S. 284 (1927)

Acts of the Legislature of Hawaii relating to foreign language schools or the teachers thereof and regulations adopted thereunder by the Depart-

ment of Public Instruction, taken as a whole, appear to infringe rights, under the Fifth Amendment of owners of private Japanese schools, and the parents attending them...

The due process clause of the Fifth Amendment affords the same protection to fundamental rights of private school owners, parents and children against invasion by the Federal Government and its Agencies (such as a territorial legislature) as it has been held the Fourteenth Amendment affords against action by a State.

0.52 U.S. Constitution, Fifth Amendment (1791)

No person shall... be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

0.6 From the Opinion of the Court in Mo Hock Ke Lok Po vs. Stainback, District Court Hawaii. 74F Supp. 852 (1944)

(854) The parents' right to have their offspring taught a foreign language is one of the fundamental rights guaranteed by the due process clause of the Fifth and Fourteenth Amendments. (856) ... It should be noted however, that to the fundamental parental right to secure for a child a foreign language so recognized in the Berea College[15] and the Society of Sisters cases - that is in the American isolationist period between 1909 and 1926 - in today's world of the United Nations there has been added an equally profound international need for understanding between the peoples of a world of different tongues... (857) The Act... shows on its face a denial of the rights to acquire a foreign language to that half, or nearly half, of Hawaiian children of more than "average intelligence." ...In Hawaii there were 22,357 children in the first four grades. Of these at least 10,000 above average intelligence, the brighter ones,

are denied the right then to begin to acquire a foreign language even with a tutor at home. We do not agree that such a denial... is warranted to seek the elimination of the harm it seeks to avoid for those of lesser ability.

0.7 Non-English American-Flag Schools, Public Law 89-110, S4, August 6, 1965 - 79 Stat. 438 (Cf. 52.1)[16]

(e) Completion of requisite grade level of education in American-flag schools in which the predominant classroom language was other than English.

(1) Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language.

(2) No person who demonstrates that he has successfully completed the sixth primary grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language, except that in States in which State law provides that a different level of education is presumptive of literacy, he shall demonstrate that he has successfully completed an equivalent level of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English.

B. State Laws, plus Opinions and Comments
by Chief State School Authorities

ALABAMA

1.1 Statutory Provisions: Alabama Code, Title 52, S 408 (1958)

English shall be the only language employed in teaching in the first six grades of the elementary schools, in the state.

1.2 Section 299, Title 52:

Definition of terms used in chapter - The terms private school, denominational school, and parochial school, as used in the preceeding section shall mean and only include such schools as hold a certificate issued by the state superintendent of education, showing that such school conforms to the following requirements, namely: a)...
b) Instruction shall be offered in the several branches of study required to be taught in the public schools of this state;
c) The English language shall be used in giving instruction.
d) ...
(1927 School Code, Section 302).

ALASKA

2.1 No statutory provision

2.2 From a letter by the State Department of Education, dated August 6, 1969

In many of our villages where the people may be primarily of Indian, Aleut, or Eskimo extraction, English is often the second language. Unfortunately most of our teachers are not well prepared in the various "native" dialects and, consequently, there is often a language gap between

pupil and teacher.

At the present time there is considerable thinking that in many villages a local (bilingual) resident should be employed as a teacher aide who would assist teachers and pupils in bridging the language gap.

ARIZONA

3.1 From Article XX - Ordinance, State Constitution

The following ordinance shall be irrevocable without the consent of the United States and the people of this state:

...

Seventh: Provisions shall be made by law for the establishment and maintenance of a system of public schools which shall be open to all the children of the State and be free from sectarian control, and said schools shall always be conducted in English.

...

Thirteenth: This ordinance is hereby made a part of the Constitution of the State of Arizona, and no future Constitutional amendment shall be made which in any manner changes or abrogates this ordinance in whole or in part without the consent of Congress.

3.2 House Bill 17, Approved by the Governor April 16, 1969

Section 1. Legislative intent

The purpose of this act is to provide a special program for teaching the use and understanding of the English language, placing the supervision of the program under the state board of education and superintendent of public instruction, and making an appropriation.

Section 2. Sec. 15-202, Arizona Revised Statutes, is amended to read:
15-202 Conducting of public schools in English language, bilingual instruction

A. All schools shall be conducted in the English language, except special classes as provided in subsection B of this section.

B. In the first three grades of any common school district where there are pupils who have difficulty in writing, speaking or understanding the English language because they are from an environment wherein another language is spoken primarily or exclusively, the district may provide special programs of bilingual instruction to the extent deemed necessary to improve or accelerate the comprehension and speech of the English language by such pupils.

Section 3. Title 15, chapter 10, Arizona Revised Statutes, is amended by adding a new article 10, to read:
ARTICLE 10. SPECIAL ENGLISH TRAINING

15-1097 Special Education Program

A. There shall be a special education program to carry out the provisions of this article subject to certification by the state superintendent of public instruction and pursuant to the rules and regulations prescribed by the state board of education relating to the administration of this article.

B. The state board of education shall establish:
1. Testing standards and qualification requirements for students to qualify for each grade level under this article prior to and after completion of the program.
2. Minimum qualifications for instructors to teach under this article.

3. That common schools seeking support under this article have suitable facilities.

C. The superintendent of public instruction shall enforce the compliance of school districts with the requirements of subsection B of this section.

15-1098 Powers of the governing body of a school district; program

The governing body of a school district may:

A. Provide a special course of instruction for common school children in the first three grades who, because they are from an environment wherein another language is spoken primarily or exclusively, are having difficulty in writing, speaking or understanding the English language. This special instruction in the English langu[illegible] shall be in addition to the regular course of instruction prescribed in [illegible] school districts.

B. Employ special teachers for the operation of specia[illegible]es of English instruction.

C. In cooperation with another district or districts, establish special classes of English instruction for children who are having difficulty with the English language.

D. If the governing body of a school district complies with the provisions contained in this article, the special class or classes may be conducted by the school district in a classroom or school facility owned and maintained by the school district, or the school district may contract with other public agencies, within or without the district, for the use of facilities in which to further the education of children who are having difficulty with the English language.

E. Each child who qualifies under this section shall be limited to one

course of instruction.

15-1099 Appropriation and apportionment; approval of program

A. Those students who qualify for this special program of instruction who are presently included in the appropriation and apportionment made pursuant to sections 15-1211 and 15-1212 and the county levy as provided in section 15-1233 shall receive in addition thereto, an appropriation by the legislature to each school district providing special education classes under the provisions of this article twenty-five dollars per unit of average daily attendance per annum for each special education student taught by the district and this appropriation shall be made on an actual per capita per annum basis as shown by the records of the superintendent of public instruction.

B. ...

C. The appropriations and apportionment provided under the terms of this section shall not be granted to the governing body of a school district unless the district complies with the provisions of this article and the conditions and standards prescribed by the superintendent of public instruction pursuant to rules and regulations of the state board of education. A school district program for education of children having difficulty with English, shall be presented to the state board of education for approval.

D. ...

Section 4. Appropriation

The sum of one hundred thousand dollars is appropriated to the superintendent of public instruction for the purposes provided in this act.

3.3 From a letter by the State Department of Public Instruction, dated December 11, 1969:

In answer to your letter asking for an interpretation of Title 15-202

Arizona Revised Statutes, which states that all schools in Arizona shall be taught in English, I have consulted with a representative of our Attorney General. His opinion is that this provision relates only to public schools.

If a contemplated school is to be used as a substitute for public education, I would suspect a further clarification should be requested. However, if a school is not planned as a substitute for public education but for some special organizational purpose, it would appear that English need not be the sole language for any instruction involved.

3.4 Opinion by the State Attorney General (Mr. Darrell F. Smith), dated February 21, 1968:

In teaching the English language to pupils who cannot speak or comprehend English, it is necessary to use their own language as a tool or technique in the process of such teaching. In other words, their own language is employed only to the extent that is necessary to accelerate their process of acquiring ability to comprehend and use English.

Through such bilingual instruction, certain pupils will be enabled to put English language to beneficial use much sooner than could otherwise be possible.

The Enabling Act, Constitution and Statute require all classes to be conducted in English. The word conduct is important. If 'conduct' means English and only English can be spoken in an Arizona School then no foreign language of any type, other than perhaps English, could be taught or used in that school. If 'conduct' means the management, direction, education oversight or control of the class, then foreign languages can be taught in Arizona Schools. 'Conduct' is defined in Webster's New International Dictionary, 2nd Edition Unabridged, 1960, as follows:

"1. Act or method of conducting; guidance; specif., obs., the leadership or command of an army, ship, etc..

"2. Act or manner of carrying on, directing, or managing, as a business; management; direction.

. . ."

This definition was used by the New York Court in PEOPLE vs. HILL, 192 N.Y. Supp. 2nd, 342, 344.

In the context of this definition it is our opinion that the Enabling Act, Constitution and Statutes reflect the desire of the citizens that the teachers lead, direct or manage their classes by use of the English language for the worthy purpose that the people become proficient in its use and application to ideas. We see no conflict in this high purpose and the equally high purpose of the Bilingual Education Act which hopes to improve a pupil's understanding and communication of English by the logical process of using his familiar language to teach him English. Our Opinion No. 56050 of March 6, 1956, is amplified hereby.

For the foregoing reasons, it is my opinion that the Enabling Act or the Constitution need not be amended to come under the provisions of the Federal Act. It might be useful if A.R.S. S 15-202 were amended as suggested in the enclosed draft so that the Legislative policy is known to all teachers in Arizona.

ARKANSAS

4.1 Statutory Provision

Section 80-1605, Arkansas Statutes:

The basic language of instruction in the common school branches in all

the schools of the State, public and private shall be the English language only. It shall be the duty of the Commissioner of Education, county superintendent (school supervisor) and the city superintendent to see that the provisions of this section are carried out. Any person violating the provisions hereof shall be deemed guilty of a misdemeanor and upon conviction shall be fined not to exceed twenty-five ($25.00) dollars, payable into the general school fund of the county. Each day such violation occurs shall be considered a separate offense.

CALIFORNIA

5.1 Statutory Provision

Section 71, Education Code:

SECTION 1. Section 71 of the Education Code is amended to read:
71. English shall be the basic language of instruction in all schools.

The governing board of any school district and any private school may determine when and under what circumstances instruction may be given bilingually.

It is the policy of the state to insure the mastery of English by all pupils in the schools; provided that bilingual instruction may be offered in those situations when such instruction is educationally advantageous to the pupils. Bilingual instruction is authorized to the extent that it does not interfere with the systematic, sequential, and regular instruction of all pupils in the English language.

Pupils who are proficient in English and who, by successful completion of advanced courses in a foreign language or by other means, have become fluent in that language may be instructed in classes conducted in that

foreign language.

(Second and third paragraphs added in 1967 by Senate Bill 53; Fourth paragraph added in 1968 by Senate Bill 1100).

5.2 Sections 8705 and 8706, California School Code (1965)

8705 - Credit shall be given for purposes of the course of study requirements prescribed by school district governing boards or other authorities having jurisdiction for grades 9 through 14, inclusive, to courses in foreign languages in private schools on the basis of their being at least equivalent to those which would be required for the student in a foreign language class in the same grade level in the public schools. The State Board of Education shall adopt rules and regulations prescribing standards and conditions pursuant to which credit shall be given for those purposes to students in the public schools who have successfully completed foreign language studies in private schools.

8706 - The provisions of Section 8705 giving credit for foreign language courses given in private schools shall apply to courses in the following languages: Chinese, French, German, Greek (classical and modern), Hebrew (classical and modern), Italian, Japanese, Jewish [Yiddish], Latin, Spanish and Russian, and such other languages as the State Board of Education shall designate.

COLORADO

(Cf. also 60.1)

6.1 Statutory Provision Concerning Public Education
Section 1, 123-21-3, Colorado Revised Status 1963, as amended in 1969 by Senate Bill 61:

123-21-3. Policy of state to instruct in English - exceptions

Instruction in the common branches of study in the public schools of this state shall be conducted principally through the medium of the English language; except that it shall be the policy of the state also to encourage the school districts of the state to develop bilingual skills and to assist pupils whose experience is largely in a language other than English to make an effective transition to English, with the least possible interference in other learning activities.

6.2 No Statutory Provision Concerning Non-Public Schools

CONNECTICUT

7.1 Statutory Provision

10-17, Connecticut General Statutes:

The medium of instruction and administration in all public and private elementary schools shall be the English language and not more than one hour in any school day may be given to instruction in any language other than English. Any person who violates any provision of this section shall be fined not less than fifty dollars nor more than five hundred dollars or imprisoned not more than six months or be both fined and imprisoned. (1949 Rev. S. 1351.)

DELAWARE

8.1 No Statutory Provision

8.2 The State Department of Public Instruction writes in a letter dated August 11, 1969:

The school laws of Delaware are silent with regard to the language to

be used for instruction in the public schools. The State Board of Education would be empowered to rule on this matter, but there have been no such rulings to date. Since there is no sizable non-English-speaking population in our state, the question of bilingual instruction has never been an issue.

Except in the areas of driver education and pupil transportation, non-public schools are not regulated by the Delaware school laws. Again, I am fairly certain that, while there are no formal policies regarding the language of instruction in non-public elementary schools, this language is almost exclusively English.

FLORIDA

9.1 No Statutory Provision

Nor are there any pertinent rulings by the State Board of Regulations.

GEORGIA

10.1 No Statutory Provision

10.2 The State Department of Education writes in a letter dated August 7, 1969:

There are no laws of the State of Georgia forbidding the teaching of pupils in the primary grades of the public schools through a medium other than the English language. We have no State law covering teaching in non-public schools so that any decision with regard to bilingual education would be the prerogative of the administration of any parochial or private

school.

There are no provisions that the common branches must be taught in English or that they must be taught in English only. As a matter of practice, as you will understand, the amount of instruction in any other language besides English is relatively limited although we do have many elementary and high schools which do have courses in French or Spanish.

HAWAII

11.1 No Statutory Provision

11.2 From two letters by the State Department of Education, dated August 11, and September 9, 1969:

The 1965 Session of the State Legislature amended Section 40-3, Revised Laws of Hawaii, to delete that portion of the statute which required the teaching of Hawaiian in the public schools. Hawaiian continues to be offered as an elective where there is a sufficient number of students electing it and where a qualified teacher is available to teach it. The latter condition grows increasingly difficult to meet as the years go by.

Prior to 1965, the Revised Laws of Hawaii stated specifically that, with the exception noted above, all instruction would be in English. And they also stated that instruction in the Hawaiian language would be provided those wanting to learn Hawaiian. After 1965, the Revised Laws of Hawaii dropped any reference to the language of instruction being English, based on the expressed belief that it was redundant to state the obvious, i.e. English is the language of this nation.

Private schools, grades 1 through 12 have been required in the past to

use English as the language of instruction.

Foreign language schools, such as the Japanese and Chinese language schools of the past, were organized specifically to teach the language and the culture of a particular ethnic group, and were not permitted to substitute in any way for the public schools. Their instruction was offered after the hours of the public school schedule.

IDAHO

12.1 Statutory Provision Concerning Public Schools: IC 33-1601:

IC 33-1601. Instruction in English language

Instruction in all subjects in the schools, except that required for the teaching of foreign languages, shall be conducted in the English language. (1963, CH 13 § 176, P. 27).

12.2 No Statutory Provision Concerning Non-Public Schools

ILLINOIS

13.1 Statutory Provisions
Ch. 122, Sect. 27-2, Illinois Statutes 1967

27-2. Instruction in English language. Instruction in the elementary branches of education in all schools shall be in the English language except in vocational schools where the pupils have already received the required instruction in English during the current school year.

13.3 1961 School Code as amended in 1969 (H.B. 1463)

Duties of the School Board:
Sec. 10-20, 8a - Bilingual education program. In any school district containing one or more attendance centers which have 10% or more students from homes where the English language is not spoken... to employ persons qualified by the State Teacher Certification Board to teach and supervise bilingual programs, subject to approval by the Superintendent of Public Instruction.

13.2 From a Letter by the State Department of Public Instruction, dated December 9, 1969:

This particular provision (Sec. 27-2) would apply to any non-public school seeking recognition status from the Office of Superintendent of Public Instruction. Where, however, a non-public school does not seek to be recognized they would not need to comply with this provision requiring instruction in English.

INDIANA

14.1 Statutory Provision
Burns Annotated Statutes, 28-3401:

All subjects and branches taught in the elementary schools of the state of Indiana and all elementary schools maintained in connection with benevolent or correctional institutions, shall be taught in the English language only, and the trustee, and such other officers as may be in control, shall have taught in them, orthography, reading, writing, arithmetic, geography, English grammar, physiology, history of the United States, scientific temperance and good behavior, and such other branches of learning as the advancement of pupils may require, and the trustee, and other officers in control direct. The tuition in such schools shall be without

charge. (Acts 1919, ch. 18, § 1, p. 50; 1931, ch. 95 § 1, p. 319.)

14.2 Ibid., 28-3402

All private and parochial schools and all schools maintained in connection with benevolent and correctional institutions within this state which instruct pupils who have not completed a course of study equivalent to that prescribed for the first eight (8) grades of the elementary schools of this state, shall be taught in the English language only, and the persons or officers in control shall have taught in them such branches of learning as the advancement of pupils may require, and the persons or officers in control direct. (Acts 1919, ch. 18, § 2, p. 50; 1931, ch. 95, § 2, p. 319.)

IOWA

15.1 Statutory Provision

280.5 Medium of Instruction

The medium of instruction in all secular subjects taught in all of the schools, public and private, shall be the English language, and the use of any language other than English in secular subjects in said schools is hereby prohibited; but nothing herein shall prohibit the teaching and studying of foreign languages, as such, as a part of the regular school course in any such school. Any person violating any of the provisions of this section shall be fined not less than twenty-five dollars nor more than one hundred dollars.

KANSAS

16.1 Statutory Provision

Statute 72-1101:

Instruction shall be given in the English language except for courses of instruction in foreign languages.

KENTUCKY

17.1 No Statutory Provision

17.2 From a letter by the Department of Education dated August 15, 1969:

To my knowledge there is no restriction on teaching bilingual classes in Kentucky. Some of our school districts serve children of migrant farm workers and they sometimes find it necessary to adjust to the language of the children.

LOUISIANA

(Cf. also 60.21 - 60.24)

18.1 Statutory Provision Concerning Public Schools
Sec. 12, Article XII, 1921 Constitution:

The general exercises in the public schools shall be conducted in the English language.

18.2 No Statutory Provision Concerning Non-Public Schools

18.3 Law Concerning the Teaching of French in the Public Schools
Act No. 408 (1968)

An Act to further the preservation and utilization of the French language

and culture of Louisiana by strengthening its position in the public schools of the State, and requirements that the French language and the culture and history of French populations in Louisiana and elsewhere in the Americas, shall be taught for a sequence of years in the public elementary and high school systems of the State.

Be it enacted by the Legislature of Louisiana:
Section 1. The French language and the culture and history of French populations in Louisiana and elsewhere in the Americas shall be taught for a sequence of years in the public elementary and high school systems of the State, in accordance with the following general provisions:

A. As of the start of the 1969-1970 school year, all public elementary schools shall offer at least five (5) years of French instruction starting with oral French in the first grade; except that any parish or city school board, upon request to the State Board of Education, shall be excluded from this requirement, and such request shall not be denied. A single request for exclusion is sufficient unless a school board later decides to participate in the program. The fact that any board is excluded, as here provided, from participation in the program established by this Act shall in no case be construed to prohibit such school board from offering and conducting French courses in the curriculum of the schools it administers. In any school where the program provided for herein has been adopted the parent or other person legally responsible for a child may make written request to the parish school board requesting that said child be exempted from this program.

B. As of the start of the 1970-71 school year, all public high schools shall offer a program of at least three (3) years of instruction in the French language and at least one course included in the culture and history of the French populations of Louisiana and other French speaking areas in the Americas; except that any parish or city school board may

request the State Board of Education to be excluded from this requirement and such request shall not be denied.

Section 2. Educational television operated under the auspices of any public institution in the State of Louisiana shall be bilingual in character, paying due regard to the proportion of French speaking listeners within the broadcast area of such operations.

Section 3. The State Board of Education, the State Superintendent of Education, and all other public educational officials and administrators are properly charged with the implementation of this act.

Section 4. The State Board of Education, the State Superintendent of Education, and the Parish School Boards participating in the program set forth in this act shall include in their budget provision for the implementation of this program; and may avail themselves of any funds which may be provided by the Federal Government or other sources in accordance with the existing law and regulations of this State.

Section 5. All laws or parts of laws in conflict herewith are hereby repealed.

MAINE

19.1 Statutory Provisions

Sec. 1, R.S., T. 20 § 102, sub-§ 7, amended in 1969:

The basic language of instruction in all schools, public and private, shall be the English language, except as provided in this section.

19.2 Sec. 2, R.S., T. 20, § 102, sub-§ 16, as amended in 1969:

The commissioner is empowered to cooperate with the United States Department of Health, Education and Welfare in carrying out the Bilingual Educational Programs Act; and such other federal programs as may concern the improvement of educational programs designed to meet the educational needs of children in areas having high concentration of children from non-English-speaking families.

Subject to the approval, annually, of the commissioner, the school committee or the school directors of any administrative district having a high concentration of such children may provide early childhood programs involving bilingual education techniques designed to provide children during their pre-school, kindergarten and first and second grades with educational experiences which will enhance their learning and earning potential.

MARYLAND

20.1 No Statutory Provision

20.2 From a Letter by the State Department of Education dated August 6, 1969:

The State laws of Maryland do not make any mention of the issue as presented in your letter. This, then, in our interpretation might mean that school could be conducted in both public school and non-public school in a language other than English. I am sure that a question of this nature really never came up in the deliberations regarding our recent revision of the school laws for the State of Maryland. It is to be presumed, however, that the public schools of Maryland would be teaching all of their major subject areas in the primary grades through the medium of the English language.

A number of schools in Maryland, both public and non-public, provide instruction to learn a foreign language in the primary grades. This, however, is not a universal program in our State. There are a number of schools of a non-public nature which have received approval who, in turn, teach most of the courses through the language of the country that is supporting that school.

MASSACHUSETTS

21.1 No Statutory Provision Concerning Public Schools

21.2 Statutory Provision Regarding Non-Public Schools
Chapter 76, General Laws, reads:

For the purpose of this section, school committees shall approve a private school only when the instruction in all the studies required by law is in English and when satisfied that such instruction equals in thoroughness and efficiency...

21.3 Letter by the State Department of Education, dated September 11, 1969:

The implication of the last statement is that the required subjects are taught in English in the public schools.

We do have some bilingual programs under Title VII in Massachusetts and to date there has been no challenge under law against the existence of such programs.

MICHIGAN

(Cf. also 60.3)

22.1 Statutory Provision

Section 340.360 School Code of 1955 (M.S.A. 15.3360)

Sec. 360 - All instruction from the first to the eighth grade, inclusive, of those subjects required for an eighth-grade diploma, in all the schools of this state, public, private, parochial, or in connection with any state institution, shall be conducted in the English language; but this provision shall not be construed as applying to the high school course of any school district of this state maintaining a legal high school as defined in chapter 16 of part 2 of this act, nor to the high school course of any institution or corporation which maintains the same grades in its high school as are maintained in the legal high schools in this state; nor shall this provision be construed as prohibiting religious instruction in private or parochial schools given in any language in addition to the regular course of study.

22.2 From a Letter by the State Department of Education dated August 19, 1969:

Note that the words "required for an eighth-grade diploma" are critical since we no longer give eighth-grade diplomas in the state of Michigan. We are assuming that this law does not prohibit courses other than English being taught in the elementary school in a program which leads to a twelfth-grade certificate. Should anyone challenge the legality of this, it would be necessary to have an attorney general's ruling; however, at this point, this has not been necessary. Since private schools are now attempting to operate under the same school codes, we are also assuming that this will apply to private school education.

MINNESOTA

23:1 Statutory Provisions:

23.1 Minnesota Statutes 120.10 Subdivision 2:

A school, to satisfy the requirements of compulsory attendance, must be one in which all the common branches are taught in the English language, from textbooks written in the English language, and taught by teachers whose qualifications are essentially equivalent to the minimum standards for public school teachers of the same grades or subjects. A foreign language may be taught when such language is an elective or a prescribed subject of the curriculum, but not to exceed one hour in each day.

23.2 Law enacted in 1877, still in force as Sec. 126.07, Minnesota Stat. Ann. (1960), according to a letter by the State Supreme Court dated September 29, 1969

The books used and the instruction given in public schools shall be in the English language, but any other language may be used by teachers in explaining to pupils who understand such language, the meaning of English words; and in high and graded schools other languages may be taught when made a part of a regular or optional course of study. Instruction may be given in such language in common schools, not to exceed one hour in each day, by unanimous vote of the trustees.

23.3 From a letter by the State Department of Education, dated August 12, 1969:

The Minnesota Department of Education does not supervise non-public elementary schools.

MISSISSIPPI

24.1 No Statutory Provision

MISSOURI

25.1 No Statutory Provision

25.2 From a letter by the State Department of Education dated August 6, 1969:

Since the people of our state do not have the bilingual problems such as you have at Quebec, there has apparently been no need for legislation in regard to this matter.

MONTANA

26.1 Statutory Provisions
Montana Rev. Codes Ann. (1947), Section 75-2901 (1135):

Every parent, guardian, or other person, having charge of any child who is seven (7) years of age prior to the beginning of the fall school term and not over sixteen (16) years of age, shall send such child to a public, private, or parochial school, in which the basic language taught is English, for the time that the school attended is in session.

26.2 Ibid., Section 75-2002 (1054):

Courses of instruction. All public schools shall be taught in the English language, and instruction shall be given in the following branches, viz.: Reading, penmanship, written arithmetic, mental arithmetic, orthography, geography, English grammar, physiology and hygiene, with special reference to the effect of alcoholic stimulants and narcotics on the human system, civics (state and federal), United States history, the history of Montana, music, art, elementary agriculture including cooperative economics.

NEBRASKA

27.1 Constitutional Provision
Nebraska Constitution, Article I, Sec. 27

The English language is hereby declared to be the official language of this state, and all official proceedings, records and publications shall be in such language and the common school branches shall be taught in said language in public, private, denominational and parochial schools.

No other statutory provision known.

NEVADA

28.1 No Statutory Provision Concerning Public Schools

28.2 Nevada Rev. Stat. § 394.140, 1967

It shall be unlawful for any teacher or other person teaching in a private school in this state to cause to be taught or teach any subject or subjects, other than foreign languages, in a private school in this state in any language except the English language.

NEW HAMPSHIRE

29.1 Statutory Provision
New Hampshire Rev. Stat. Ann. §§ 189.19-21 (as amended in 1969):

English Required. In the instruction of children in all schools, including private schools, in reading, writing, spelling, arithmetic, grammar,

geography, physiology, history, civil government, music, and drawing, the English language shall be used exclusively, both for the purposes of instruction therein and for purposes of general administration; provided, however, that experimental educational programs in the field of bilingual education shall be permitted under the provisions of this section with the approval of the state board of education.

NEW JERSEY

30.1 No Statutory Provision

30.2 From a letter by the Division of Curriculum and Instruction, Department of Education, dated August 5, 1969:

We do have approximately 65,000 students who have come to us from Puerto Rico and Cuba who must be taught English as a second language. In order to facilitate their education, many of these students are taught in Spanish in the subject areas while at the same time they are being taught to speak English. Once a student gains command of English this bilingual teaching is discontinued. Again, there are no laws or decrees or directives concerning this matter.

NEW MEXICO

(Cf. also 60.41 and 60.42)

31.1 Constitutional Provisions
Article XXI, Sec. 4, State Constitution:

Provisions shall be made for the establishment and maintenance of a system of public schools which shall be open to all the children of the

state and free from sectarian control, and said schools shall always be conducted in English.

Article XII, Sec. 8, State Constitution:

The legislature shall provide for training of teachers to become proficient in both English and Spanish to qualify them to teach Spanish-speaking students in school.

31.2 Other Statutory Provisions
Laws 1967, ch. 16, § 180, Sec. 77-11-1

Public schools - Required courses of instruction. - The state board shall, by regulation, prescribe courses of instruction to be taught in all public schools in the state.

Section 77-11-12 NMSA, enacted in 1969:

If within its financial ability, any school district may establish in any level of instruction a bilingual and bicultural program of study involving a culture in which a language other than English is predominantly spoken in the home environment of any number of students within the school district.

The state board shall establish guidelines regulating these programs, including provisions for their availability to all students in the grade levels in which they are implemented.

31.3 No Statutory Provision Concerning Non-Public Schools

31.4 Excerpt from Draft Constitution, rejected by popular vote, December 9, 1969 (Article VIII, Sec. 3)

The cultural and linguistic diversity of New Mexico represents a rich heritage, the preservation and nurture of which shall be a concern of the public school system. English shall remain the basic language of instruction, and the legislature shall provide for both statewide and local option bilingual, bicultural and other educational programs, to assure equal opportunities for all students.

NEW YORK

32.1 Statutory Provision

Subdivison 2, Section 3204, Education Law as amended in 1968:

Quality and language of instruction; textbooks. Instruction may be given only by a competent teacher. In the teaching of the subjects of instruction prescribed by this section, English shall be the language of instruction, and textbooks shall be written in English, except that for a period of two years after enrollment in school, pupils who, by reason of foreign birth, ancestry or otherwise, experience difficulty in reading and understanding English, may in the discretion of the board of education, board of trustees or trustees, be instructed in all subjects in their native language and in English. Instruction given to a minor elsewhere than at a public school shall be at least substantially equivalent to the instruction given to minors of like age and attainments at the public schools of the city or district where the minor resides.

32.2 From a letter by K.J. Toomey, Attorney, State Education Department, dated July 24, 1969:

In my opinion, the provision in that subdivision that instruction in other than public schools be "substantially equivalent" to public school instruction requires instruction in English in non-public schools also,

subject of course to the two-year exception mentioned above.

NORTH CAROLINA

33.1 Statutory Provision
Public Law 115-198 (1955):

County and city boards of education shall require that all subjects in the course of study, except foreign languages, be taught in the English language, and any teacher or principal who shall refuse to conduct his recitations in the English language may be dismissed.

33.3 From a letter by the State Department of Public Instruction dated August 26, 1969:

For interdisciplinary courses and for experimental programs, a dispensation from this law may be obtained.

NORTH DAKOTA

34.1 Statutory Provision Concerning Public Schools:

15-47-03. English language to be used in schools. - All reports and records of school officers and proceedings of school meetings shall be in the English language. If any money belonging to a school district shall be expended in supporting a school in which the English language is not the medium of instruction exclusively, the county superintendent of schools or any taxpayer of the district, in a civil action in the name of the district, may recover for the district all such money from the officer expending it or ordering or voting for its expenditure.

34.2 No Statutory Provision Concerning Non-Public Schools

OHIO

(Cf. also 60.51 - 60.53)

35.1 No Statutory Provision

35.2 From a letter by the State Department of Education, dated August 1st, 1969:

Please be advised that there is no statute in Ohio which requires that all subjects be taught in English. There are a number of schools in the state which are teaching more than one language, even at the first grade level.

Since the law is silent on the subject, schools are free to exercise discretion.

OKLAHOMA

36.1 Statutory Provision Concerning Public Schools
Section 155, School Laws of Oklahoma (1949):

Instruction given in the several branches of learning in the public schools shall be conducted in the English language except as is necessary for the teaching of foreign languages.

36.2 No Statutory Provision Concerning Non-Public Schools

OREGON

(Cf. also 60.6)

37.1 Statutory Provision

Oregon Revised Statutes 366.078 (enacted in 1913), as amended in 1965:

All subjects taught in public, private or parochial schools, except foreign languages, shall be taught in English.

PENNSYLVANIA

(Cf. also 60.71 - 60.75)

38.1 Statutory Provision

Section 1, Section 1511 (P.L. 30, 1949) as amended by P.L. 601, 1968:

In every elementary public and private school, established and maintained in this Commonwealth, the following subjects shall be taught, in the English language and from English texts: English, including spelling, reading and writing, arithmetic, geography, the history of the United States and of Pennsylvania, civics, including loyalty to the state and National Government, safety education, and the humane treatment of birds and animals, health, including physical education, and physiology, music and art. Other subjects shall be taught in the public elementary schools and also in the public high schools as may be prescribed by the standards of the State Board of Education. All such subjects, except foreign languages, shall be taught in the English language and from English texts: Provided, however, That, at the discretion of the Superintendent of Public Instruction, the teaching of subjects in a language other than English may be permitted as part of a sequence in foreign language study or as part of a bilingual education program if

the teaching personnel are properly certified in the subject fields.

38.3 From a letter by the Department of Public Instruction dated July 15, 1969:

The legislation was originated in the Division of Languages of the Bureau of General and Academic Education to enable school districts to develop programs based upon second language instruction for English speaking children and bilingual education for non-English speaking children.

38.4 Pennsylvania Nonpublic Elementary and Secondary Education Act Act 109, effective July 1, 1968[17]

Section 4. Nonpublic Elementary and Secondary Education Fund. - There is hereby created for the special purpose of this act a Nonpublic Elementary and Secondary Education Fund dedicated to the particular use of purchasing secular educational service consisting of courses solely in the following subjects: mathematics, modern foreign languages, (emphasis supplied), physical science, and physical education, provided, however, that as a condition for payment by the Superintendent of Public Instruction for secular educational service rendered hereunder, the Superintendent of Public Instruction shall establish that (i) solely textbooks and other instructional materials approved by the Superintendent of Public Instruction shall have been employed in the instruction rendered; (ii) a satisfactory level of pupil performance in standardized tests approved by the Superintendent of Public Instruction, shall have been attained; (iii) after five years following the effective date of this act, the secular educational service for which reimbursement is sought was rendered by teachers holding certification approved by the Department of Public Instruction as equal to the standards of this Commonwealth for teachers in the public schools: Provided, however, That any such service

rendered by a teacher who, at the effective date of this act, was a full time teacher in a non-public school, shall be deemed to meet this condition.

Section 5. Administration. - The administration of this act shall be under the direction of the Superintendent of Public Instruction...

Section 6. Moneys for Fund. - (a) Permanent moneys. Into the Nonpublic Elementary and Secondary Fund shall be paid each year:

1. All proceeds from horse racing up to the first ten million dollars ($10,000,000) realized by the State House Racing Fund established by the act of December 11, 1967 (Act No. 331), remaining after, and not required for, payment of all of the items of administrative cost set forth in subsection (b) of Section 18 of that act, plus
2. One-half of all such house racing proceeds in excess of the sum of ten million dollars ($10,000,000), the remaining half thereof to be paid into the General Fund.

(b) Temporary moneys...

RHODE ISLAND

39.1 No Statutory Provision Concerning Public Schools

39.2 Statutory Provision Regarding Non-Public Schools: 16-19-2 Gen. Laws 1950 III (= ch. 678, 1925)

For the purpose of this chapter the school committee shall approve a private school or private instruction only when it complies with the following requirements, namely: ... that reading, writing, geography, arithmetic, the history of the United States, the history of Rhode Island,

and the principles of American government shall be taught in the English language substantially to the same extent as such subjects are required to be taught in the public schools, and that the teaching of the English language and of other subjects indicated herein shall be thorough and efficient; provided, however, that nothing herein contained shall be construed or operate to deny the right to teach in such private schools or on such private instructions any of said subjects or any other subject in any language in addition to the teaching in English as prescribed herein...

SOUTH CAROLINA

40.1 No Statutory Provision

40.2 From a letter by the State Department of Education dated August 7, 1969:

In South Carolina the problem of teaching "through a medium other than the English language" in the public elementary schools is, for all practical purposes, nonexistent. There is no requirement for any other language. The same answer is applicable with regard to non-public (parochial or independent) schools.

There is no state law prohibiting the use of a language other than English. However, all subjects in all elementary schools in South Carolina are taught in English.

SOUTH DAKOTA

41.1 Statutory Provision

Section 13-33-11 South Dakota Compiled Law of 1967:

It shall be unlawful to teach any subject except foreign and ancient languages in any elementary school, high school, academy, college, or higher institution of learning in this state in any except the English language, or to teach any subject, except foreign and ancient languages and religious subjects, in any private school, private academy, private college, or any private higher institution of learning in this state in any except the English language.

TENNESSEE

42.1 No Statutory Provision Concerning Public Schools

But the State Board of Education, in its rules and regulations, has made the following requirements:

(a) Grades 1-8

(1) English language arts, including listening, speaking, reading, writing, spelling, and literature, shall be taught in each grade with appropriate correlations established with other instructional areas.

(2) Foreign language experiences, when authorized by the local board of education, shall be offered on a continuing basis as part of the language arts program.

42.2 Statutory Provision Concerning Non-Public Schools

Subsection 19, Section 49-105, Tennessee Code Annotated

makes it the duty of the State Commissioner of Education:

To inspect, approve and classify such private schools of grades one (1) through twelve (12), as well as nursery schools and/or kindergartens,

or any combination of these, as shall request such inspection, approval, and classification; provided that the same standards as are used for the approval and classification of the public schools shall be used for such inspection, approval, and classification.

TEXAS

43.1 Statutory Provision
Subdivision 1, Article 2893, Revised Civil Code as amended in 1969 (HB.103):

Section 1. English shall be the basic language of instruction in all schools. The governing board of any school district and any private or parochial school may determine when, in which grades, and under what circumstances instruction may be given bilingually.

Section 2. It is the policy of this state to insure the mastery of English by all pupils in the schools; provided that bilingual instruction may be offered or permitted in those situations when such instruction is educationally advantageous to the pupils. Such bilingual instruction may not be offered or permitted above the sixth grade without the express approval by the Texas Education Agency, which approval shall be granted on a three-year basis subject to reapproval at the end of that time.

43.2 Statutory Provisions Concerning the Teaching of Non-English Languages
Vernon's Ann. Rev. Civ. St. Vol. 8B (1965), Art. 2843 (1904)

The State Board of Education shall select and adopt a multiple list of textbooks for the elementary grades of the public schools of Texas...; provided that nothing in this act shall be construed to prevent

the teaching of German, Bohemian [i.e., Czech], Spanish, French, Latin or Greek in any of the public schools.

43.3 Vernon's Ann. Rev. Civ. St. Vol. 8B (1965) Art. 2911 (a) (c. 1940)

Sec. 1 The Board of Trustees of Independent and Common School Districts in this state shall have the power to designate certain grades of the elementary schools in their respective districts and to designate certain grades or sections of grades above the second grade in such schools in which the teaching of the Spanish language may be a part of the curriculum.

Sec. 2 The State Board of Education is hereby authorized and empowered and directed to purchase textbooks, and recorded Spanish exercises for the teaching of the Spanish language in such grades or sections of grades... and to distribute such books, without cost to the pupils.

UTAH

44.1 No Statutory Provision

VERMONT

45.1 No Statutory Provision

45.2 From a letter by the Department of Education, August 6, 1969:

Parochial and independent or non-public elementary schools do not come under state regulation as such. Consequently, as independent institutions we have no way of knowing whether they have self-imposed rules or regulations with respect to language; however, it is believed that most of these schools are teaching classes in English.

VIRGINIA

46.1 No Statutory Provision

46.2 From a letter by the State Board of Education dated August 5, 1969:

To my knowledge, it has never been necessary in Virginia to adopt laws which forbid in the primary grades of the public schools pupils being taught through a medium other than the English language.

WASHINGTON

47.1 Statutory Provision
Chapter 71, Laws of 1969:

All students in the common schools of the state of Washington shall be taught in the English language: PROVIDED, That nothing in this section shall preclude the teaching of students in a language other than English when such instruction will aid the educational advancement of the student.

WEST VIRGINIA

48.1 Statutory Provision
Ch. 18-2-7, West Virginia Code: enacted in 1868, as amended in 1923

The basic language of instruction in the common school branches in all schools, public, private, and parochial, shall be the English language only.

WISCONSIN
(Cf. also 60.8)

49.1 Statutory Provision
Section 118.01, General School Code:

All instruction shall be in the English language, except that the school board may cause any foreign language to be taught to such pupils as desire it.

49.2 From a letter by the State Department of Public Instruction, dated August 12, 1969:

You have also inquired about the laws that apply to private schools. There is no such regulation applying to the private schools and this would be governed by the rules of the private school itself.

WYOMING

50.1 No Statutory Provision

50.2 From a letter by the Department of Education, dated August 4, 1969:

A number of communities in Wyoming have families who come from a Spanish speaking background. Many of the schools have developed programs to aid the children in gaining skills in the English language.

C. Polities Other Than Component States

DISTRICT OF COLUMBIA

51.1 No Statutory Provision

PUERTO RICO

52.1 Statutory Provision Concerning Public Schools (Publ. L. No. 139, June 29, 1969)

Sec. 5: Serán criterios inalterables la enseñanza en español y la intensificación de la enseñanza del inglés como idioma adicional.

(Instruction in Spanish and the intensification of the teaching of English as an additional language shall be unalterable standards.)

52.2 No Statutory Provision Concerning Non-Public Schools

52.3 From a letter by the Department of Education, dated November 6, 1969:

Non-public schools are free to use the language of instruction they choose. The majority use both English and Spanish, many use Spanish and a few use English as the medium of instruction.

TERRITORIES IN GENERAL

53.1 From a letter of the Department of the Interior, Office of the Solicitor, Washington, D.C. October 3, 1969:

As to your query and assumption that the "Bilingual Education Act"

(31 Stat. 816; 20 U.S.C. 880b-880b-6) automatically takes precedence over all territorial laws, regulations, etc., which may have stood in the way of bilingual schools, it is our opinion that this Act does apply to the various territorial schools (cf. 20 U.S.C. 881(j)) by providing financial assistance to local educational agencies to develop and carry out new and imaginative elementary and secondary school programs designed to meet the special educational needs of children of limited English speaking ability, but we do not read into the Act a mandatory requirement that such local school agencies are prone to abide by its provisions or that the territorial law is superseded by it. We do think, however, that it is benefical to the territories to take advantage of the grant funds available under this law, and since the official language is English, it paves the way at an early age for students to prepare for public responsibility and government service when the age of majority is reached.

AMERICAN SAMOA

54.1 No Statutory Provision

54.2 From a letter by the Department of Education, Pago Pago, dated September 10, 1969:

All of our students are Samoan children who enter first grade speaking only Samoan (except for an insignificant number of simple English phrases picked up from resident Americans). Our system of instruction is based upon the necessity of teaching English to be used as a language of instruction for needed concepts and subjects found in the twentieth century western world that the Samoan has chosen to become a part of. There is no Samoan literature and the language is not suited for any kind of technical or abstract learning. The acquiring of this "second language" is the

chief goal of the elementary years.

Our approach is based upon the premise that literacy in Samoan must precede literacy in English, and for that reason our total pre-school program, the first grade, and the second grade are taught wholly in the Samoan language. Beginning to a limited extent in the second grade and to a considerable extent in the third grade and beyond, English is introduced in its written form. Oral English is begun in grade one, taught by native-English speakers supported by Samoan teachers.

Instruction in Samoan virtually disappears in the upper elementary grades and high school, except that a number of courses dealing with the Samoan language and culture are continued throughout the system.

There is no law on the books of the territory concerning the language of instruction. Our purpose is to make the Samoan truly bilingual. Because of the impact of teaching English, the deterioration of the Samoan language (especially because of its strongly oral tradition) is an ever present danger which we must guard against daily.

GUAM

55.1 Statutory Provision Concerning Public Schools
Gov. Code Ch. 3, Title 12, Sec. 11200, enacted by P.L. 88, G.L. 1952

Section 11200. English language required. All courses of study shall be taught in the English language, except courses in foreign language.

55.2 No Statutory Provision Concerning Non-Public Schools

55.3 From a letter by the office of the superintendent of Education

dated December 24, 1969

Our education code is quite inadequate and we are planning to have additions made particularly in relation to private schools.

AMERICAN VIRGIN ISLANDS

56.1 No Statutory Provisions

(According to Virgin Islands Code vol. 3A, 2nd Ed. 1964, Title 17 S 41, the V.I. Board of Education shall prescribe the courses of study for all public schools. According to Title 17 S 192, a non-public school, in order to become accredited must have a curriculum "substantially equal" to that of the public schools.)

CANAL ZONE

57.1 No Statutory Provision Concerning Public Schools

57.2 From a letter by the Deputy Superintendent of Schools, December 3, 1969:

There is an (oral) administrative agreement with the Republic of Panama that the program of instruction in the schools for Panamanian children (Latin American Schools) shall parallel that provided by the Ministry of Education in Panama. By implication this would indicate that the primary language of instruction would be Spanish. Actually the good instruction in these schools does result in a high degree of bilinguality by the time pupils finish secondary school. English is used as a language of instruction in science and mathematics.

Bilinguality would be highly unlikely under any type of instruction for the United States students, the majority of whom are in the Canal Zone for periods of two or three years.

57.3 No Statutory Provision Concerning Non-Public Schools

57.4 From the letter quoted in 57.2:

There are no boarding schools in the Canal Zone, and there is only one elementary parochial school and the language of instruction therein is English.

TRUST TERRITORY OF THE PACIFIC ISLANDS

58.1 No Statutory Provisions

58.2 Teaching English as a Second Language Program

As re-stated, in May 1967, by the English Language Supervisors from each district in joint session with members of the Education Department:

The basic objective, as now stated is: "English shall become the general language for communication and instruction in the Trust Territory." In addition, the following basic principles were established as policy:

1. "Elementary school children, starting in grade one, shall be taught to read in their local language.
2. English shall be taught as a second language. The Teaching English as a Second Language (TESL) Program includes two major areas:
   A. Oral English
   B. Literacy in English

3. English shall become the medium of instruction in the schools as soon as the students indicate sufficient evidence of their ability to comprehend other subjects in English."

Source: Twentieth Annual Report to the U.N. on the Administration of the Trust Territory of the Pacific Islands, July 1st, 1966 - June 30, 1967, p. 124.

APPENDIX I

THE RYUKYU ISLANDS

The School Education Act (Act 3, 1958) now in force in the Ryukyu Islands does not contain statutory provisions requiring elementary schools to conduct classes in Japanese; however, this act requires schools to use text books in all subjects and at all levels approved by the Central Board of Education. All such approved books are in Japanese except those used in the classes where English is taught as a second language. This same Act also provides public education for the Ryukyuan people whose official language is Japanese.

APPENDIX II

SOME NINETEENTH CENTURY PROVISIONS CONCERNING BILINGUAL OR NON-ENGLISH SCHOOLS

	Year	Nature of Source	
			COLORADO
60.1	1867	Law	Where there are 25 or more German children whithin any school district, the board of directors with the approval of the county superintendent of schools shall establish a school wherein both the German and English languages shall be taught.
			LOUISIANA
60.21	1847	Law	Art. 26: In any district where the directors keep an English school and do not have the branches taught in French, it shall be lawful for the youth in such districts, who desire to learn in the French language, to attend at a district school where the French is taught; and the directors of the district where such youth reside, on being satisfied that such youth have actually attended school under some qualified teacher, shall pay the teacher of the school or schools where such youth attend, the portion of school money that would be coming to such youth out of the funds of their district, and the same rule shall be adopted and privileges allowed, in favor of those wishing to learn the English in districts where the French language is taught, and so of any other languages. (Cf. also 60.51)

60.22	1879	Constit.	Art. 226:The general exercises in the public schools shall be conducted in the English language and the elementary branches may also be taught in the French language in those parishes in the State or localities in said parishes, where the French language predominates, if no additional expense is incurred thereby.
60.23	1888	Law	Sec. 14:The branches of orthography, reading, writing, arithmetic, geography, grammar, U.S. history, and laws of health and physical education shall be taught in every district. In addition to those, such other branches as the State Board of Education and the parish school board may require; provided that these elementary branches may also be taught in the French language in those parishes in the State or localities in said parishes where the French language predominates, if no additional expense is incurred.
60.24	1898	Constit.	Art. 251 (= Const. 1913, Art. 251) The general exercises in the public schools shall be conducted in the English language; provided that the French language may be taught in those parishes or localities where the French language predominates, if no additional expense is incurred thereby.

			MICHIGAN
60.3	1827	Law	Every township within this territory containing 50 families or householders shall be provided with a good schoolmaster or schoolmasters, of good morals, to teach children to read and write, and to instruct them in the English or French language, as well as in arithmetic, orthography, and decent behavior.
			NEW MEXICO
60.41	1880	Law	Each of the voting precincts of a county shall be and constitute a school district in which shall be established one or more schools and in which shall be taught orthography, reading, writing, arithmetic, geography, grammar, and the history of the United States in either English or Spanish or both, as the directors may determine.
60.42	1891	Law	Sec. 7 (rel. to Sup. of Public Instr.): It shall be his duty to recommend the most approved text-books in English, or in English and Spanish, for the common schools of the Territory, after the same have been adopted by the Territory Board of Education.
			OHIO
60.51	1839	Law	Sec. 6:The directors shall have power to determine what branches and language or languages shall be taught in their several districts: Provided the branches taught shall be such as are generally taught in common schools.

Sec. 18: In any district where the directors keep an English school and do not have the branches taught in German it shall be lawful for youth in such district who desire to learn in the German language to attend a district German school; and the directors of the district where such youth reside on being satisfied that such youth have actually attended school under some duly qualified teacher shall give the teacher or teachers where such youth attend an order or orders on the proper township treasure for the portion of school money that would be coming to such youth from the funds of the proper district and the same rule shall be adopted and privileges allowed in favor of those wishing to learn the English who reside in districts where the German language is taught and so of any other language.
(Cf. also 60.21)

60.52 1840 Law

(= Amendment to Charter of City of Cincinnati): It shall be the duty of the Board of Trustees and Visitors of Common Schools to provide a number of German schools under some duly qualified teachers for the instruction of such youth as desire to learn the German language or the German and English languages together.

60.53	1853	Law	The township board of education...may provide for German schools for the instruction of such youth as may desire to study the German language or the German and English languages together.
			OREGON
60.6	1872	Law	The directors of any school district in the state which shall contain ten thousand inhabitants or more may, upon petition of not less than one hundred residents and qualified electors of such school district, provide that one or more of the common schools to be kept in such district shall be taught in the German language, and the teachers employed in such school or schools, in addition to the other qualifications required of teachers under the existing school laws, shall be educated in the German language, and qualified to teach the same.
			PENNSYLVANIA
60.71	1804	Law	The overseers of the poor...shall ascertain in the names of all those children whose parents or guardians they shall judge to be unable to give them necessary education and shall give notice to such parents or guardians that provision is made by law for the education of their children or the children under their care, and that they shall have a full and free right to subscribe at the usual rates, and

			send them to any school in the neighborhood, and that expenses thus incurred be paid from taxmoney. It shall be enjoined as a duty on all school-masters and school-mistresses, teaching English or German languages, and arithmetic to receive into their schools and teach as aforesaid, all such poor children as shall be recommended to them by the overseers of the poor.
60.72	1831	Rep. Supt. Publ. Sch. f.t.y. 1836	Care has been taken during the last year to correct the impressions that a German school cannot be a (public) common school.
60.73	1852	Decis. Supt. Publ. Sch.	School directors may establish German schools under the common school law, or cause German and English to be taught in the same school, but the board of directors cannot be required to cause German to be taught. They should consult the wishes of the people of their district in this regard and if any considerable number of Germans desire to have their children instructed in their own language, their wishes should be gratified. The directors have exclusive jurisdiction over this subject, and from their decision upon it there is no appeal - the Superintendent having only the power to

			advise. If the voice of the people is not respected by them, the only remedy is to elect persons who will respect it.
60.8	1856	Law	TEXAS Sec. 4. It shall be the duty of the County Court, annually, to apportion the said school fund among the children between the ages of six and eighteen years, who may attend any school in their respective counties, in proportion to the time that each child has been taught, upon the teacher's filing, with the County Clerk, an affidavit, signed and sworn to by himself...as to the number of children taught, and the time they received instruction. And said schools are hereby declared "free public schools"...
			Sec. 11. ...No school shall be entitled to the benefits of this act unless the English language is taught therein.
60.91	1846	Law (Rel. to City of Milwaukee)	WISCONSIN No school which is now, or may be hereafter established within the limits of the city, shall be entitled to any share of the moneys raised or received for school purposes, unless... the English language be taught therein as a branch of education.
60.92	1848	Law	Whenever the majority of the inhabitants of a school district at any regular meeting, shall express a preference to

have other languages taught in connection with the English language, it shall be the privilege of the district board to employ a teacher qualified for that purpose and such district shall have their regular share of the public monies.

Notes

1. Arnold H. Leibowitz: English Literacy: Legal Sanction for Discrimination, in: Notre Dame Lawyer, 45, no. 1, fall 1969, pp. 7-67.
2. Newbury House, Rowley, Mass. The title of the former book is: Das Nationalitätenrecht der Vereinigten Staaten (Vienna: Braumüller 1963).
3. Enacted Apr. 11, 1965, P.L. 89-10.
4. Enacted Oct. 16, 1968, P.L. 90-35.
5. Two institutes at Bowdoin for high school teachers (chaired by Prof. Brault) in 1961 and 1962; three institutes for both elementary and high school teachers at Assumption 1964 (Brault, chairman), 1965 (Prof. A. LeBlanc) and 1966 (Prof. Th. Martin).
6. Supreme Court of the U.S. No. 496, October Term 1964, pp. 3-4.
7. See for Iowa ch. 198-1919 = sec. 2263 Io. Code 1919; Ohio Gen. Code sec. 7762-1 and -2 = law enacted June 5, 1921; Oklahoma sec. 10.635, 1919 acc. to. Comp. St. II 1922 p. 3481; Nebraska law enacted April 14, 1921 (Norval Law).
8. For a first overview, as of 1967, see Report II: Teaching Content in a Foreign Language, in: Ch. Christian (ed.): Reports: Bilingual Education: Research and Teaching, Nov. 10-11, 1967 Hilton Inn, El Paso, Tex. pp. 22-56, esp. Genelle Caldwell: The Teaching of Social Studies in a Foreign Language at the High School Level, ibid. pp. 50-56.
9. A. Raisner, Ph. Bolger, C. Sanguinetti: Science Instruction in Spanish for Pupils of Spanish Background. An Experiment in Bilingualism. New York: U.S. Department of Health, Education and Welfare, Bureau of Research, Final Report Project No. 2370, 181 pp., annexes (report from 16 schools, grades 7-10).
10. The affiliation which has linked the Ryukyu Islands with the U.S. after World War II for a period now scheduled to end in 1972 is an even looser one. As for the issue of bilingual schools, see Appendix F I.
11. In the Canadian city of Montreal the Catholic School Commission had since about 1957 subsidized supplementary schools set up by

ethnic groups on condition that the program includes one period of instruction in the French language each week. Usually the instruction in these schools lasts three hours.
(Cf. Report of the Royal Commission on Bilingualism and Biculturalism, IV, 1969, p. 156). As of February 69 the condition concerning the teaching of French was dropped and all part-time ethnic schools are now under the provincial Immigration Dept. and entitled to subsidies but only for classrooms. (Communication from Mr. G. McConnell).

12. Mendez v. Westminster School District, 64 F Supp. 544 (S.D. Cal. 1946).
13. Gonzalez v. Sheerly, 96 F. Supp. 1004 (D. Ariz. 1951).
14. NEA of the U.S.: Addresses and Proceedings of the 107th Annual Meeting, held at Phila., Pa., June 30-July 5, 1969. Washington, 1969, p. 571 (discussion on pp. 225-227).
15. The court is referring to the dissenting opinion of Judge Harlan in Berea College v. Kentucky, 211 U.S. 45 (1908), esp. p. 67.
16. Upheld by the U.S. Supreme Court in Katzenbach v. Morgan, 384 U.S. 651 (prel. ed.). Cf. Also Cardona v. Power, 384 U.S. 679 (prel. ed.) and U.S. v. County Board of Election, 248 F. Suppl. 316 (W.D. N. Y. 1965). On all of these see now Leibowitz 1969 pp. 30-38.
17. The constitutionality of this act has been upheld by a Federal Court, Nov. 28, 1969, by a 2:1 vote.